

BOARD OF EQUALIZATION
DIESEL FUEL TAX REGULATIONS

Regulation 1430. SHIPMENTS OUT OF STATE.

Reference: Sections 60033, 60100, 60201, 60501-60512, 60521-60524, and 60604, Revenue and Taxation Code.

(a) EXPORTS OF EX-TAX DIESEL FUEL. The diesel fuel tax does not apply to the export of ex-tax diesel fuel. To qualify for an exemption from diesel fuel tax on the export of ex-tax diesel fuel, the supplier must claim the exemption on the return filed for the period in which the export occurred. Suppliers who erroneously pay tax on exports of ex-tax diesel fuel may file a claim for refund with the Board pursuant to Revenue and Taxation Code Sections 60521 through 60524 in order to obtain a refund of or credit for the amount of tax so paid.

(1) For purposes of this subdivision, "export" means the delivery or shipment from a point in this state to a point outside of the state when pursuant to the contract of sale the diesel fuel is shipped by a supplier by any of the following means:

(A) Facilities operated by the supplier.

(B) Delivery by the supplier to a carrier, customs broker, or forwarding agent, whether hired by the purchaser or not, for shipment to the out-of-state point.

(C) Delivery by the supplier to any vessel clearing from a port of this state for a port outside of this state and actually exported from this state in the vessel.

(2) For purposes of this subdivision, "carrier" means a person who is regularly engaged in the business of transporting for compensation property owned by other persons and includes both common and contract carriers. An individual or firm does not become a "carrier" simply by being designated by a purchaser to receive and ship goods to a point outside this state.

(3) For purposes of this subdivision, "forwarding agent" means a person or firm regularly engaged in the business of preparing property for shipment or arranging for its shipment. An individual or firm does not become a "forwarding agent" simply by being designated by a purchaser to receive and ship goods to a point outside this state.

(b) EXPORTS OF TAX-PAID DIESEL FUEL. A person who exports diesel fuel on which tax has been paid may file a claim for refund with the Board pursuant to Revenue and Taxation Code Sections 60501 through 60512 in order to obtain a refund of the amount of tax so paid. For purposes of this subdivision, the seller is deemed to be the exporter of diesel fuel when the diesel fuel is delivered to an out-of-state location by facilities of the seller or by common carrier on behalf of the seller, and the purchaser is deemed to be the exporter of diesel fuel when the diesel fuel is delivered to an out-of-state location by facilities of the purchaser or by common carrier on behalf of the purchaser.

(1) All claims for refund of tax paid on exported diesel fuel must be supported by, and the claim for refund covering the export must contain the following:

(A) The name, address, telephone number, and permit number of the person that sold the diesel fuel to the claimant.

(B) The date the diesel fuel was purchased.

(C) A statement by the claimant that the diesel fuel covered by the claim did not contain visible evidence of dye.

(D) A statement, which may appear on the invoice or similar document, by the person that sold the diesel fuel to the claimant that the diesel fuel sold did not contain visible evidence of dye.

(E) The total amount of diesel fuel covered by the claim.

(F) A properly executed bill of lading or similar document furnishing proof of exportation by the claimant.

Regulation 1430. (Continued)

(2) In lieu of claiming a refund of tax for export of tax-paid diesel fuel, if the claimant is a supplier, the claimant may take a credit on its diesel fuel tax return for tax-paid diesel fuel when, pursuant to the contract of sale, the diesel fuel is required to be shipped and is shipped to a point outside of this state by the supplier claiming the credit by any of the means described in subdivision (a)(1) above. The credit must be claimed on a return filed within three months after the close of the calendar month in which the export occurred. If the credit is not claimed on a return filed within three months after the close of the calendar month in which the export occurred, the supplier must file a claim for refund pursuant to Revenue and Taxation Code Sections 60501 through 60512 and this subdivision in order to obtain a refund of the amount of taxes paid.

(c) DOCUMENTATION. Any person claiming an exemption, refund or credit under this regulation must retain documentation to support the obligation to deliver diesel fuel out of state and to support the actual delivery of diesel fuel at an out of state location. Documentation may include, but is not limited to, contracts, bills of lading, delivery tickets, invoices and rack meter readings. The person claiming the exemption, refund or credit has the burden of proving that the diesel fuel was exported.

(d) DIVERSION OF DIESEL FUEL. Diesel fuel is not exported if it is diverted in transit or for any reason it is not actually delivered outside of the state, regardless of documentary evidence held by the person exporting the diesel fuel respecting delivery of the diesel fuel to a carrier for out-of-state shipment or to a vessel clearing for an out-of-state port.

History: Adopted December 9, 1998, effective March 31, 1999.

Amended March 27, 2002, effective July 11, 2002. Subdivision (b)(2) amended to allow credit to be claimed on return filed within three months after the close of the calendar month in which the tax-paid fuel is exported.